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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,379	12/28/2000	Norbert Lenz	DE919990092-US1	1510

7590 05/06/2004

Anne V. Dougherty
3173 Cedar Road
Yorktown Heights, NY 10598

EXAMINER

PATEL, NIKETA I

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 05/06/2004

3

Please find below and/or attached an Office communication concerning this application or proceeding.

PLN

Office Action Summary

Application No

09/752,379

Applicant(s)

LENZ ET AL.

Examiner

Niketa I. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: no line number on abstract, specification and claims. Appropriate correction is required. The preferred format for numbering the claims is to number each line of every claim, with each claim beginning with line 1. For ease of reference by both the Examiner and the Applicant, all future correspondence should include the recommended line numbering.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claims 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that they fail to point out what is included or excluded by the claim language. These claims are an omnibus type claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-6 and 9-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Fiszman et al. U.S. Patent Number:

6,115,646 (hereinafter referred to as "*Fiszman*".)

6. **Referring to claims 1 and 9**, *Fiszman* teaches a method and a program storage device for supporting automated management of supporter-owned resources in a system having at least one repository and a resource managing program means, comprising the steps of [see column 3 - lines 1-30; figure 4 - element 1-7]: accessing a repository comprising requests each defining an action to be performed, or a desired state to be achieved, the state being associated with a respective one of said resources [see column 5 - lines 35-67; column 6 - lines 1-3; figure 3 - element 82]; reorganizing said requests into a chain of requests

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[see column 9 - lines 9-26; figure 4 - element 'Scheduler']; and invoking resource managing program means for handling the chain of said requests [see column 9 - lines 23-39.]

7. **Referring to claims 2 and 10**, *Fiszman* teaches in which said requests define desired states of operating system maintained resources, wherein the method further comprises the step of invoking supporter program means for ensuring that said resources are set according to said requests [see column 9 - lines 9-50.]

8. **Referring to claims 3 and 11**, *Fiszman* teaches further comprising the step of using a standardized interface for said invocation of supporter programs [see column 7 - lines 33-36, 49-64.]

9. **Referring to claims 4 and 12**, *Fiszman* teaches further comprising at least one of the steps of: checking for inconsistencies caused by one or more requests, generating one or more new requests as a child request of an already existing request, simulating the execution of said requests, executing updates of resources and generating special requests for activation, making updates known to the operating system, and reversing updates done before [see column 8 - lines 47-65; column 9 - lines 40-44.]

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10. **Referring to claims 5 and 13**, *Fiszman* teaches further comprising the step of generating a user-readable protocol in which effects of execution of one of said steps according to the preceding claim are logged with respective settings of said resources [see column 9 - lines 58-63.]

11. **Referring to claim 6**, *Fiszman* teaches a computer program comprising code portions adapter for performing the steps according to the method according to claim 1 when said program is loaded into a computer device [see abstract.]

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following documents have been made record of to further show the state of the art as it pertains to:

b. Stewart et al. U.S. Patent Number: 5,058,044

c. Ndumn et al. U.S. Patent Number: 6,314,555

d. Ransom et al. U.S. Patent Number: 6,148,324

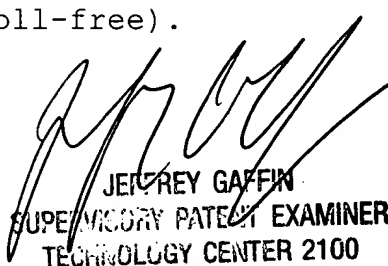
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niketa I. Patel whose telephone number is (703) 305 4893. The examiner can normally be reached on M-F 8:00 A.M. to 5:00 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on (703) 308 3301. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NP
04/29/2004



JEFFREY GAFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100